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The Honorable William E. Kennard, Chairman
The Honorable Susan Ness
The Honorable Michael K. Powell
The Honorable Harold Furchtgott-Roth
The Honorable Gloria Tristani
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, D.C. 20554

Dear Commissioners:

Subject: Docket No. 96-45 Ex Parte Communication--Funding for Rural Health Care Providers

As co-chairs of the Alaska Telehealth Advisory Council, we have the opportunity to hear about the progress and the problems faced by health care providers and by telecommunications companies in developing telehealth capabilities to serve Alaskans. We understand that the Universal Service Fund program for Rural Health Care providers offers the potential for improved access to higher bandwidth services. More affordable broad-band services (meaning 56 Kbps services and higher in most places; in other places even 28 Kbps services will represent a major step forward) can support telemedicine applications. Such services will also permit the use of email and internet-based information services, educational programming, web and video-conference based training for health care.

We are concerned that the health care providers have been trying to participate in the program, but have been foiled by unclear and changing rules. Rules and policies for the program appear to have emerged over time. They were not clearly defined in writing before the telecommunications carriers began responding to the requests for services for rural health care providers. We do not want to see those who took initiative penalized.

Advanced telecommunications services have been cost-prohibitive in much of our state. The promise of support through the federal Universal Services program for rural health care providers stimulated investment in and deployment of improved telecommunication services starting in 1997, but the promise of the program to enable rural health care providers to access these services has not been realized. We are aware that rural hospitals in Petersburg, Ketchikan, Juneau, and Seward believed that they were arranging for services that would be supported by the program. They submitted their applications early in the process, and initiated

communications with both their local telecommunications carriers and their long distance companies to try to set up reimbursable services during the first year of the program. They thought that they were following the instructions available: (1) by submitting applications (Form 465), (2) then requesting services from the eligible telephone companies, and (3) then making efforts to get the circuit descriptions provided by the telephone companies on the required forms. As far as they could tell, these were the steps to get services and support.

Other health care providers such as many of our Native health corporations and village clinics submitted applications for support and have sought services, have put hundreds of hours into efforts to get information from the Rural Health Care Division, to get responses from telecommunications providers, and to learn more about the circuits and services they might be able to purchase. As you are aware, many parts of Alaska have very limited bandwidth available, so many clinics have had to request services that must be designed and deployed. In some settings, the carriers have responded enthusiastically with creative solutions, but in other areas the services are still not on the drawing boards.

In areas like Northwest Arctic Borough and the Yukon Flats areas, the long distance companies have deployed new infrastructure and worked with the local eligible carriers to set up services that would meet the intent of the Universal Services program. However even in these instances, the elaborate planning did not anticipate that the RHCD/USAC requirements would include contracts establishing dates of "resale" of circuits from long distance companies to local exchange companies (LECs), in order for the services to qualify for support. The enormous efforts and investments in systems to meet the needs of the rural health care providers have so far yielded not one cent of support. The program has encouraged rural health care providers to participate, and has promised retroactive support for eligible services.

The impact in Alaska is large in terms of dollars lost, investment of time and good will, and potential for future cooperation. We expected support to be in place for about $12 million per year by this time, but have seen zero dollars credited to the state's providers. We are pleased that the RHCD has responded in the last two months to our state's concerns, providing information about program rules that may enable the support for services to begin to be in place during Year 2, for at least some of our providers. There is, however, a serious backlog of requests for support for Year 1 which seem no closer to resolution, because the rules evolving in recent months were not clear to any participants as they put in place their services, which were thought to be "eligible" services under the program.

We request the FCC consider how to implement the intent of the program, with attention to the Alaska health care providers who are at financial risk for arranging for services expected to be supported. We are aware of anxiety about accusations of "fraud and abuse" of this program, but we ask, how can there be fraud where there are no funds being distributed? The intent of the applicants has been to obtain legitimate services under the program. We believe it should be possible for them to obtain support for the types of services the program intended to support. Auditing (which we understand is being planned) may be important to meet the scrutiny of Congress, but we believe Congress is also interested in Congressional intent being implemented.

We also wish to acknowledge the October 1 decision of the Commission, which may alleviate some of the implementation problems faced in Alaska. Allowing greater bandwidth, permitting the long distance carriers to provide services directly rather than through "resale" to local exchange companies (LECs), and clarifying consortium arrangements may help in the long run, but these remedies appear not to solve the current problems. Rapid implementation of the October 1 decision may be helpful. In any case, it is critical that implementation guidelines be both clear and flexible to be able to respond to diverse conditions across our state and the country, in order to fulfill the promise of the USF program for rural health care.

Thank you for your attention to these matters.

Sincerely,

Richard Mandsager, MD
ATAC Co-Chair

Commissioner Karen Perdue
ATAC Co-Chair

cc: Magalie R. Salas, Office of the Secretary, Federal Communications Commission (2)
Governor Tony Knowles, State of Alaska
Lieutenant Governor Fran Ulmer, State of Alaska
Senator Ted Stevens, United States Senate
Nanette Thompson, Regulatory Commission of Alaska